



California Fair Political Practices Commission

March 18, 1987

Robert Hargrave
12646 South Manor Drive
Hawthorne, CA 90250

Re: Your Request for Advice
Our File No. A-87-055

Dear Mr. Hargrave:

You have requested advice concerning your disclosure responsibilities under the conflict of interest provisions of the Political Reform Act.^{1/}

FACTS

You are employed by the City of Hawthorne as City Accountant. You are required by the City's conflict of interest code to disclose relevant real property, investment and income interests within the jurisdiction of the City. As a designated employee, you use Form 730 for filing your Statement of Economic Interests (SEI).

QUESTIONS

1. Are you required to disclose income received from a public agency for rental of privately held real property?
2. Are you required to disclose an ownership interest in real property which you hold in trust for named individuals pending completion of an agreement for you to sell the property to a partnership?

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

CONCLUSIONS

1. You are required to disclose rental income aggregating \$250 or more in a calendar year on Schedule D of Form 730. Additionally, you must report the name of any individual renter on Schedule H if the aggregate rental income received from a single source is \$10,000 or more in a calendar year. Although part of the rent payments are paid from funds provided by the United States Department of Housing and Urban Development (HUD), and part from the renter of your residential property, the payments do not constitute "salary and reimbursement ...from a state, local, or federal government agency...." (Section 82030(b).) Hence, they do not qualify for the exception to income reporting requirements in Sections 87207 and 87302. In addition, the renter should be considered the source of all rental income received, even though part of the rent was paid by HUD.

2. You are required to disclose an ownership interest in the real property even though you believe that other individuals have made a commitment to purchase the property and you have designated yourself as a trustee to manage the property on behalf of the potential partnership. Therefore, you must report your real property ownership, if the value is \$1,000 or more, on Schedule B of Form 730 until such time as the sale is actually consummated.

ANALYSIS

You indicated in your letter, in the material enclosed with the letter, and in a telephone conversation with me, that the residential property which you reported as disposed on your 1984 annual SEI actually had not been sold as you had anticipated at that time. In fact, no money changed hands, the partnership which was to buy the property has not been formed to date, and only a continuing expectation of a final sale of the property governs the relationship between you and the potential buyers.

The Commission staff has previously given advice on similar transactions. When real property is sold, but the price "remains unpaid and unsecured otherwise than by the personal obligation of the buyer" (Civil Code Section 3046), then the seller has a vendor's lien on the property. The lien constitutes a beneficial interest within the meaning of Section 82033. (Advice letter to Raymond M. Haight, No. A-83-104, copy enclosed.)

The fact that you deeded the property to yourself to hold in trust for the named individuals does not eliminate your SEI reporting requirements because you still own and control the property for all practical purposes. Therefore, you should file amended Form 730 statements for 1984 (when you reported that the property had been disposed) and for 1985 (when you did not disclose your ownership interest). Of course, the 1986 annual statement also should show your interest in the rental property on Schedule B.

Rental income from the residential property comes partly from payments from HUD through the City's housing department. Even though the conflict of interest code of the City of Hawthorne includes a provision that "Income received from a public agency need not be disclosed," rental payments are not exempt from reportable income within the meaning of Section 82030(b)(2) and Sections 87207 and 87302. Only "salary and reimbursement for expenses...received from a state, local, or federal government agency" is exempt from income disclosure requirements. (Section 82030 (b).) Since "rent" is a kind of income which is reportable (Section 82030(a)), and a governmental renter is not excluded (see Advice Letter to David J. Oster, File No. A 85-229, copy enclosed), the rent payments you received are reportable income.

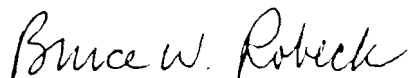
Income from a single source of \$250 or more during the reporting period is disclosed on Schedule D. However, you are not required to disclose the name of the renter on Schedule D. If the aggregate income (rent) from a single source totals \$10,000 or more during a reporting period, then the name of the income source must be disclosed on Schedule H. In this instance, you should consider the renter to be the source of the entire rent even though the renter may have been partly subsidized by HUD funds. Your statements for 1984 and 1985 need to be amended to show the rental income received by you during those time periods.

Enclosed please find Supplemental Schedules B and D which should be used to amend your 1984 and 1985 annual statements of economic interests.

If you have further questions, feel free to contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By: Bruce W. Robeck
Political Reform Consultant

DMG:BWR:kmt

A-87-055

FEB 17 5 28 AM '87

Fair Political Practices Commission
428 J Street Suite 800
Sacramento CA 95814

February 6, 1987

Gentleman:

I am writing to obtain technical assistance in the following situation.

Since December 1969, I have been employed by the City of Hawthorne as the City Accountant. As a city employee I am required to file Conflict of Interest Form 730. As the City Accountant I am required to report disclosure categories 1, 2, & 3.

The question concerns category 3, which states "Income received from a public agency need not be disclosed".

In 1976 I purchased a small house in Hawthorne for rental purposes. I have reported the income in category 3 and the ownership in category 1. In 1984 a group of people decided to form a partnership. I was to sell the property to the group for a specified price and while having no equity interest was to be the general partner and manage the property.

In 1984 my wife and myself deeded the property to me to be held in trust for and all parties were named - on form 730 I reported the house as disposed.

During 1985 and 1986, the property was rented through the Housing Department on the HUD program, and the income was not reported as per category 3.

In compliance with the 1099 requirement, the city has now requested social security numbers and entity designation. Since the partnership papers have not been filed yet due to a divorce situation between the partners, I could only sign it as an individual. Since that is true I am now wondering about category 1 and 3 requirements for the ownership and the rental income.

Please advise and I will follow your directions. Thank You for your help.

Sincerely,



Robert Hargrave
12646 S. Manor Dr
Hawthorne CA 90250
Phone 213-978-0428

APPENDIX

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

The City Manager shall be governed by the financial disclosure provisions of Article 2 of Chapter 7 of Title 9 of the Government Code (Government Code §87200 et seq.)

Secretary to City Manager	1, 2, 3, 4
Economic Development Director	1, 2, 3, 4
Assistant Redevelopment Director	1, 2, 3, 4
Director of Personnel	1, 2, 3, 4
Personnel Assistant	1, 2, 3
Employee Relations Officer	1, 2, 3
Director of Finance	1, 2, 3, 4
Accountant	1, 2, 3
Deputy Purchasing Agent	1, 2, 3, 4
Warehouse Clerk	1, 2, 3
Purchasing Assistant	1, 2, 3, 4
Administrative Assistant	1, 2, 3
Business License Supervisor	1, 2, 3
Business License Inspector	1, 2, 3
Public Information Officer	1, 2, 3, 4

APPENDIX

DISCLOSURE CATEGORIES

CATEGORY 1.

Persons in this category shall disclose all interests in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency. Neither the principal residence of the filer nor any other property which the filer utilizes exclusively as the personal residence of the filer need be disclosed by the requirements of this paragraph.

CATEGORY 2.

Persons in this category shall disclose all investments as defined in the Political Reform Act of 1974 and regulations relating thereto.

CATEGORY 3.

Persons in this category shall disclose all income received from any source located or doing business or expecting to do business within the jurisdiction. Income received from a public agency need not be disclosed. Income shall mean income as defined in the Political Reform Act of 1974 and regulations relating thereto.

CATEGORY 4.

Persons in this category shall disclose all income from and investments in business that manufacture or sell supplies or services of the type utilized by the Department in which the person is employed.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Adm. Code Sections 18100 et seq.) and any amendments to the Act or regulations, are incorporated by reference into this Appendix.

The Following Summary Must Be Completed By All Filers

Do not complete this summary until you have reviewed all schedules and the instructions on the opposite page from each schedule carefully.

SCHEDULE A — Investments

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to my disclosure category

SCHEDULE B — Interests in Real Property

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to my disclosure category

SCHEDULE C — Interests in Real Property and Investments Held by Business Entities or Trusts

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to my disclosure category

SCHEDULE D — Income (other than Gifts and Loans)

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to this type of statement or to my disclosure category

SCHEDULE E — Income (Loans)

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to this type of statement or to my disclosure category

SCHEDULE F — Income (Gifts)

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to this type of statement or to my disclosure category

SCHEDULE G — Business Positions

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to my disclosure category

SCHEDULE H — Income and Loans to Business Entities (Including Rental Property)

☐ Schedule completed and attached ☐ No reportable interests ☐ Schedule not applicable to this type of statement or to my disclosure category

NOTE: Filers whose reportable interests on any particular schedule have not changed since a previously filed Annual Statement may attach copies of the appropriate schedule from the previous annual Statement. Please discard those schedules on which you have nothing to report.

VERIFICATION

I have used all reasonable diligence in preparing this Statement. I have reviewed the Statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 19____, at _____
(Date) (Place)

SIGNATURE _____

All of the information required by this form is mandatory, is required by the provisions of the Political Reform Act, Government Code Section 81000 et seq., and will be available to any member of the public upon request. This information is to be used to reveal to public scrutiny certain financial interests of public officials and employees in order to disclose potential conflicts of interests and to aid in the prevention of actual conflicts of interests.

Name _____

Schedule B — Interests in Real Property

(See Instructions on Preceding Page)

STREET ADDRESS OR PRECISE LOCATION	CITY	VALUE
NATURE OF INTERESTS, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		<input type="checkbox"/> \$1,000 - \$10,000
		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
<input type="checkbox"/> Less than 10%		* <input type="checkbox"/> 10% or greater
STREET ADDRESS OR PRECISE LOCATION	CITY	VALUE
NATURE OF INTERESTS, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		<input type="checkbox"/> \$1,000 - \$10,000
		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
<input type="checkbox"/> Less than 10%		* <input type="checkbox"/> 10% or greater
STREET ADDRESS OR PRECISE LOCATION	CITY	VALUE
NATURE OF INTERESTS, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		<input type="checkbox"/> \$1,000 - \$10,000
		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
<input type="checkbox"/> Less than 10%		* <input type="checkbox"/> 10% or greater
STREET ADDRESS OR PRECISE LOCATION	CITY	VALUE
NATURE OF INTERESTS, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		<input type="checkbox"/> \$1,000 - \$10,000
		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
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		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
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STREET ADDRESS OR PRECISE LOCATION	CITY	VALUE
NATURE OF INTERESTS, E.G., OPTION, OWNERSHIP, LEASEHOLD, DEED OF TRUST		<input type="checkbox"/> \$1,000 - \$10,000
		<input type="checkbox"/> \$10,001 - \$100,000
IF NOT HELD THROUGHOUT THIS PERIOD, THIS INTEREST WAS:		<input type="checkbox"/> Over \$100,000
<input type="checkbox"/> ACQUIRED	DATE _____	IF RENTAL PROPERTY OWNERSHIP INTEREST IS
<input type="checkbox"/> DISPOSED	DATE _____	
<input type="checkbox"/> Less than 10%		* <input type="checkbox"/> 10% or greater

NOTE: IF YOU ARE COMPLETING AN ANNUAL OR LEAVING OFFICE STATEMENT, YOU MUST REPORT ON SCHEDULE D ANY INCOME (\$250 OR MORE) FROM REAL PROPERTY LISTED ON SCHEDULE B RECEIVED BY YOU OR YOUR SPOUSE.

*If you are completing an Annual or Leaving Office Statement and have checked this box, you may have to report your pro rata share of the total gross rental income (if \$250 or more) on Schedule D, and if your pro rata share of the gross rental income from any source was \$10,000 or more, you may have to report the name of that source on Schedule H.

Name

Robert Hargrave

Schedule D — Income (Other than Gifts and Loans)

(See Instructions on Preceding Page)

NAME OF SOURCE OF INCOME <u>Dennis Brooks</u>	AMOUNT <input type="checkbox"/> \$250 - \$1,000 <input checked="" type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> Over \$10,000
ADDRESS OF SOURCE OF INCOME <u>4570 W. El Segundo Blvd</u>	
BUSINESS ACTIVITY OF SOURCE OF INCOME, IF ANY <u>Chiropractor</u>	
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED <u>Wages</u>	
NAME OF SOURCE OF INCOME <u>Accounting - (Self Employed)</u>	AMOUNT <input type="checkbox"/> \$250 - \$1,000 <input checked="" type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> Over \$10,000
ADDRESS OF SOURCE OF INCOME <u>12646 S. Marcor</u>	
BUSINESS ACTIVITY OF SOURCE OF INCOME, IF ANY <u>Accounting</u>	
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED <u>Accounting</u>	
NAME OF SOURCE OF INCOME	AMOUNT <input type="checkbox"/> \$250 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> Over \$10,000
ADDRESS OF SOURCE OF INCOME	
BUSINESS ACTIVITY OF SOURCE OF INCOME, IF ANY	
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	
NAME OF SOURCE OF INCOME	AMOUNT <input type="checkbox"/> \$250 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> Over \$10,000
ADDRESS OF SOURCE OF INCOME	
BUSINESS ACTIVITY OF SOURCE OF INCOME, IF ANY	
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	
NAME OF SOURCE OF INCOME	AMOUNT <input type="checkbox"/> \$250 - \$1,000 <input type="checkbox"/> \$1,001 - \$10,000 <input type="checkbox"/> Over \$10,000
ADDRESS OF SOURCE OF INCOME	
BUSINESS ACTIVITY OF SOURCE OF INCOME, IF ANY	
DESCRIPTION OF THE CONSIDERATION FOR WHICH INCOME WAS RECEIVED	



California Fair Political Practices Commission

February 19, 1987

Robert Hargrave
12646 S. Manor Drive
Hawthorne, CA 90250

Re: 87-055

Dear Mr. Hargrave:

Your letter requesting advice under the Political Reform Act was received on February 17, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard", is written over the typed name.

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh